

database at the centralized information identification location; and identifying the piece of information on the basis of the comparison. See paragraph [0021] and paragraphs [0028]-[0032] of the Substitute Specification.

The Examiner's allowance of claims 45, 46 and 48 - 65 is noted with appreciation.

Claims 1 - 8, 10 - 27 and 34 - 44 stand rejected under 35 USC 102 as being anticipated by US Patent No. 5,991,737 (Chen). These grounds of rejection are traversed for the following reasons.

With respect to the independent claims 1 and 21, it is noted that these claims require respectively "(b) sending a first message containing at least a portion of the broadcast piece of information received with the first receiver to a centralized information identification location having a database storing data for identifying pieces of information" and "first message transmitting means for transmitting a first message describing the piece of information including at least a portion of the broadcast piece of information received with the receiver". It is noted that the Examiner continues to apply Chen to claims 1 and 21 as noted in the last rejection by construing these claims respectively as reciting "[b] sending a first message describing the piece of information to a centralized information identification location having a database storing data for identifying pieces of information" and "first message transmitting means for transmitting a first message describing the piece of information." It is therefor seen that the Examiner is erroneously construing the claims as covering the subject matter prior to their amendment on April 5, 2004. The arguments which applicants have presented in the September 16, 2004 Amendment for distinguishing Chen are applicable to responding to the current office action. Moreover, it is noted that the Examiner's Response to Arguments does not address

the arguments previously made by the applicant with respect to the claims excluding the Chen reference by reciting that the first message in claim 1 contains at least a portion of the broadcast piece of information received with the first receiver and as recited in claim 21 first message means for transmitting a first message describing the piece of information including at least a portion of the broadcast piece of information received with the receiver.

Chen operates on a fundamentally different principle of identifying the consumers interest in purchasing the content of information being broadcast by using a code to identify that information. See column 3, lines 20 - 43 and further column 4, lines 9 - 17 wherein it is specifically taught that "the consumer interacts with consumer transmitter 18 to cause it to be transmitted to processing station 22 that includes data specifying the broadcast information, for example, specifying a particular radio or television station or ID of a billboard, without specifying the content of the broadcast information" emphasis added. It is therefore seen that Chen specifically teaches away from the subject matter of the independent claims. Instead, Chen utilizes a code as described in column 23, lines 21 - 42 which is not part of the broadcast information. This code informs the content identification processor 34, which is part of the processing station 22, of the identification of the content which the consumer desires to purchase. For example, as discussed in column 3, lines 28 - 32, codes such as *CDTM1079 and *TVTMNBC are clearly understood by persons of ordinary skill in the art to not be a portion of the information broadcast to the consumer.

Moreover, there is no basis in the record why a person of ordinary skill in the art would be motivated to modify the teachings of Chen to arrive at the subject matter of independent claims 1 and 21.

The dependent claims 2 - 8, 10 - 20, 22 - 27 and 34 - 44 define further aspects of the present invention which are not anticipated by Chen or rendered obvious therefrom.

Claims 28 - 31 stand rejected under 35 USC 103 as being unpatentable over Chen in view of US Patent 6,131,042 Lee et al. These grounds of rejection are traversed for the following reasons.

Lee et al has been cited as teaching a combination cellular telephone radio receiver and recorder mechanism for vehicles. The subject matter does not cure the deficiencies noted above with respect to Lee et al.

In view of the foregoing remarks, it is submitted that each of the claims in the application is in condition for allowance. Accordingly, early allowance thereof is respectfully requested.

To the extent necessary, applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to the deposit account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (Case: 0171.37357X00), and please credit any excess fees to such deposit account.

Respectfully submitted,

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